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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **LORETTA ANN HEALY**
25038 Old Highway 99
13 Weed, CA 96094

14 Registered Nurse License No. 217155

15 Respondent.

Case No. *2008-93*

OAH No.

A C C U S A T I O N

16 Complainant alleges:

17 **PARTIES**

18 1. Ruth Ann Terry, M.P.H, R.N (Complainant) brings this Accusation solely
19 in her official capacity as the Executive Officer of the Board of Registered Nursing, Department
20 of Consumer Affairs.

21 2. On or about July 31, 1971, the Board of Registered Nursing issued
22 Registered Nurse License Number 217155 to Loretta Ann Healy (Respondent). The Registered
23 Nurse License was in full force and effect at all times relevant to the charges brought herein and
24 will expire on December 31, 2008, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Registered Nursing
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
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references are to the Business and Professions Code unless otherwise indicated.

4. Section **2750** of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section **2764** of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 2725 of the Code states:

"(a) In amending this section at the 1973-74 session, the Legislature recognizes that nursing is a dynamic field, the practice of which is continually evolving to include more sophisticated patient care activities. It is the intent of the Legislature in amending this section at the 1973-74 session to provide clear legal authority for functions and procedures that have common acceptance and usage. It is the legislative intent also to recognize the existence of overlapping functions between physicians and registered nurses and to permit additional sharing of functions within organized health care systems that provide for collaboration between physicians and registered nurses. These organized health care systems include, but are not limited to, health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, clinics, home health agencies, physicians' offices, and public or community health services.

"(b) The practice of nursing within the meaning of this chapter means those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including all of the following:

1 (1) Direct and indirect patient care services that ensure the safety, comfort,
2 personal hygiene, and protection of patients; and the performance of disease prevention and
3 restorative measures.

4 (2) Direct and indirect patient care services, including, but not limited to, the
5 administration of medications and therapeutic agents, necessary to implement a treatment,
6 disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a
7 physician, dentist, podiatrist, or clinical psychologist, as defined by Section 1316.5 of the Health
8 and Safety Code.

9 (3) The performance of skin tests, immunization techniques, and the withdrawal
10 of human blood from veins and arteries.

11 (4) Observation of signs and symptoms of illness, reactions to treatment, general
12 behavior, or general physical condition, and (A) determination of whether the signs, symptoms,
13 reactions, behavior, or general appearance exhibit abnormal characteristics, and (B)
14 implementation, based on observed abnormalities, of appropriate reporting, or referral, or
15 standardized procedures, or changes in treatment regimen in accordance with standardized
16 procedures, or the initiation of emergency procedures.

17 “. . .”

18 7. Section **2761(a)** of the Code provides, in pertinent part, that the Board
19 may take disciplinary action against a certified or licensed nurse or deny an application for a
20 certificate or license for unprofessional conduct.

21 8. California Welfare and Institutions Code section **15630** provides, in
22 pertinent part:

23 “(a) Any person who has assumed full or intermittent responsibility for the care
24 or custody of an elder or dependent adult, whether or not he or she receives compensation,
25 including administrators, supervisors, and any licensed staff of a public or private facility that
26 provides care or services for elder or dependent adults, or any elder or dependent adult care
27 custodian, health practitioner, clergy member, or employee of a county adult protective services
28 agency or a local law enforcement agency, is a mandated reporter.

“(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone immediately or as soon as practicably possible, and by written report sent within two working days, as follows:

“(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsperson or the local law enforcement agency.”

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“(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

“ ”

“(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

“ ”

“(f) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is

1 a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more
2 than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated
3 reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined
4 in Section 15610.63 of the Welfare and Institutions Code, abandonment, abduction, isolation,
5 financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that
6 abuse results in death or great bodily injury, shall be punished by not more than one year in a
7 county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and
8 imprisonment. If a mandated reporter intentionally conceals his or her failure to report an
9 incident known by the mandated reporter to be abuse or severe neglect under this section, the
10 failure to report is a continuing offense until a law enforcement agency specified in paragraph (1)
11 of subdivision (b) of Section 15630 of the Welfare and Institutions Code discovers the offense.

12 9. California Code of Regulations, title 16, section 1444, states, in pertinent
13 part:

14 “A conviction or act shall be considered to be substantially related to the
15 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
16 present or potential unfitness of a registered nurse to practice in a manner consistent with the
17 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
18 following:

19 “. . .”

20 “(b) Failure to comply with any mandatory reporting requirements.

21 “. . .”

22 COSTS

23 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
24 request the administrative law judge to direct a licensee found to have committed a violation or
25 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26 and enforcement of the case.

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1 **FACTUAL SUMMARY**

2 11. During March, 2006, Respondent was employed as a registered nurse at
3 Sunbridge Care and Rehabilitation Center (hereinafter "Sunbridge"), a long-term care facility in
4 Weed, California. Respondent was the Director of Nursing at this time.

5 **Incident One:**

6 12. On or about March 3, 2006, patient J.S., a 70-year-old female resident,
7 reported to nursing staff at Sunbridge that she had been slapped by patient E.F. Staff members
8 did not observe the incident. Staff members heard patient J.S. yelling in the "activity room" and
9 went to the room, where they observed patient J.S. moving away from patient E.F. while patient
10 E.F. advanced toward patient J.S. and acted as if he was about to hit her with his fist.

11 13. Staff members documented this incident in the 24 Hour Report, which is
12 typically reviewed by Respondent, pursuant to her duties as the Director of Nursing, when she
13 arrives at the facility each day.

14 14. Respondent did not report this incident as required by law.

15 **Incident Two:**

16 15. On or about March 16, 2006, staff members observed patient E.F.
17 exposing and fondling the breasts of patient J.F., an 87-year-old female patient who suffered
18 from dementia.

19 16. Respondent was informed of the incident soon after it occurred but did not
20 report the incident as required by law.

21 **CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct)

23 17. Respondent is subject to disciplinary action under section 2761(a) in that
24 she acted unprofessionally, as set forth above in paragraphs 11-16.

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1 PRAYER

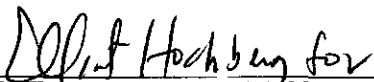
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 217155, issued
5 to Loretta Ann Healy;

6 2. Ordering Loretta Ann Healy to pay the Board of Registered Nursing the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: 9/18/02

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14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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